

EMERGING BUSINESS ENTERPRISES (EBE) AND SECTION 3 WORK FORCE PARTICIPATION

Contractors are notified that it is NIDC policy to strongly encourage EBE and Section 3 participation on all NIDC-sponsored contracts. Information about the City of Milwaukee's EBE programs is available at <http://www.city.milwaukee.gov/EmergingBusinessEnte1389.htm>.

CITY OF MILWAUKEE – NEIGHBORHOOD IMPROVEMENT DEVELOPMENT CORPORATION (NIDC) **CONTRACTOR RESPONSIBILITIES UNDER SECTION 3**

What is Section 3?

Section 3 is enforced by the U.S. Department of Housing and Urban Development (HUD.) Section 3 seeks to ensure that low income residents of the local community have access to the employment and contracting opportunities created by HUD funded programs. NIDC supports and encourages HUD's Section 3 goals.

What projects are subject to Section 3?

If you are a contractor who receives an NIDC contract for more than \$100,000, your project is subject to Section 3 requirements and you have certain responsibilities to comply with Section 3. Whether or not your bid on this project is over \$100,000, NIDC requests that you and your subcontractors fill out a "Section 3 Business Certification Form."

What are Contractors' responsibilities under Section 3?

If you are a contractor who, in a single contract, receives more than \$100,000 of Federal funding through NIDC, the following requirements apply to your project and will be included in the contract (See attached "Section 3 Clause" for language which will be included in contracts):

- Include the "Section 3 Clause" (see attached) in all contracts with your subcontractors on this project.
- Submit a "Section 3 Business Certification Form" and require all subcontractors working on a NIDC funded project to submit a "Section 3 Business Certification Form."
- Strive to meet the Section 3 Business participation goal of at least 10% of the total dollar amounts of construction contracts or subcontracts associated with this contract are awarded to Section 3 Businesses (the definition of a Section 3 Business is below).
- If this contract results in you or your contractors/subcontractors hiring **new employees**, you and your contractors/ subcontractors must attempt to identify and hire qualified Section 3 residents (the definition of a Section 3 resident is below) to fill these positions. "Attempt" means efforts such as recruiting low-income residents through local advertising media, displaying signs at the project site, contacting area community and workforce development organizations, or similar methods. If new employment opportunities are created as a result of this project, NIDC will require documentation of the steps you and your contractors/subcontractors took to identify and hire qualified Section 3 residents.
- Submit a Section 3 Participation Report at the conclusion of each project.

What is a Section 3 Business?

Section 3 Businesses are one of the following:

1. Businesses that are 51% or more owned by Section 3 Residents.
2. Businesses where at least 30% of employees are currently Section 3 Residents, or were within three years of the date of hire.
3. Businesses that commit to and document that at least 25% of the dollar amount of all subcontracts associated with its work on a project will be carried out by businesses which meet one of the two above criteria.

Who is a Section 3 Resident?

Section 3 Residents are:

1. Residents of Public Housing or
2. Individuals that reside in the City of Milwaukee and whose household incomes do not exceed the thresholds below:

(Income figures effective January 10th, 2013)

Family Size:	1 Person	2 Persons	3 Persons	4 Persons	5 Persons	6 Persons	7 Persons	8 Persons
Household Income	\$39,350	\$44,950	\$50,550	\$56,150	\$60,650	\$65,150	\$69,650	\$74,150

Is there a current list of Section 3 Businesses?

There is no current list of Section 3 Businesses in the Milwaukee Area. Currently, NIDC relies on businesses self-certification to determine whether or not a business is a Section 3 Business. While the criteria are not identical, many City of Milwaukee certified Emerging Businesses Enterprises (EBEs) may also qualify as Section 3 Businesses. A list of EBEs is available at:

<http://www.city.milwaukee.gov/EmergingBusinessEnte1389.htm>

If you or your sub-contractors are seeking a referral source for qualified Section 3 Residents to be considered for new employment opportunities arising out of NIDC funded projects, please contact the Wisconsin Regional Training Partnership at 414-342-9787 or the Milwaukee Area Workforce Investment Board at 414-270-1700.

If you have additional questions about Section 3 requirements, please contact NIDC.

SECTION 3 CLAUSE

(For inclusion in all section 3-covered contracts)

- A. The work to be performed under this contract is subject to the requirements of section 3 of the Housing and Urban Development Act of 1968, as amended, 12 U.S.C. 1701u (section 3). The purpose of section 3 is to ensure that employment and other economic opportunities generated by HUD assistance or HUD-assisted projects covered by section 3, shall, to the greatest extent feasible, be directed to low-and very low-income persons, particularly persons who are recipients of HUD assistance for housing.
- B. The parties to this contract agree to comply with HUD's regulations in 24 CFR part 135, which implement section 3. As evidenced by their execution of this contract, the parties to this contract certify that they are under no contractual or other impediment that would prevent them from complying with the part 135 regulations.
- C. The contractor agrees to send to each labor organization or representative of workers with which the contractor has a collective bargaining agreement or other understanding, if any, a notice advising the labor organization or workers' representative of the contractor's commitments under this section 3 clause, and will post copies of the notice in conspicuous places at the work site where both employees and applicants for training and employment positions can see the notice. The notice shall describe the section 3 preference, shall set forth minimum number and job titles subject to hire, availability of apprenticeship and training positions, the qualifications for each; and the name and location of the person(s) taking applications for each of the positions; and the anticipated date the work shall begin.
- D. The contractor agrees to include this section 3 clause in every subcontract subject to compliance with regulations in 24 CFR part 135, and agrees to take appropriate action, as provided in an applicable provision of the subcontract or in this section 3 clause, upon a finding that the subcontractor is in violation of the regulations in 24 CFR part 135. The contractor will not subcontract with any subcontractor where the contractor has notice or knowledge that the subcontractor has been found in violation of the regulations in 24 CFR part 135.
- E. The contractor will certify that any vacant employment positions, including training positions, that are filled (1) after the contractor is selected but before the contract is executed, and (2) with persons other than those to whom the regulations of 24 CFR part 135 require employment opportunities to be directed, were not filled to circumvent the contractor's obligations under 24 CFR part 135.
- F. Non compliance with HUD's regulations in 24 CFR part 135 may result in sanctions, termination of this contract for default, and debarment or suspension from future HUD assisted contracts.
- G. With respect to work performed in connection with section 3 covered Indian housing assistance, section 7(b) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450e) also applies to the work to be performed under this contract. Section 7(b) requires that to the greatest extent feasible (i) preference and opportunities for training and employment shall be given to Indians, and (ii) preference in the award of contracts and subcontracts shall be given to Indian organizations and Indian-owned Economic Enterprises. Parties to this contract that are subject to the provisions of section 3 and section 7(b) agree to comply with section 3 to the maximum extent feasible, but not in derogation of compliance with section 7(b).